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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/915,631	07/26/2001	Thomas A. Baudendistel	DP-304581 7500/66	6470

7590

09/03/2002

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EXAMINER

RODRIGUEZ, PAMELA

ART UNIT

PAPER NUMBER

3683

DATE MAILED: 09/03/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/915,631

Applicant(s)

BAUDENDISTEL ET AL.

Examiner

Pam Rodriguez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. Claim 20 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In line 2 of Claim 20, the phrase "said mounts" is indefinite. Only a single mount has been claimed previously, therefore it is unclear whether applicant is claiming a plurality of mounts or just the one.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-6, 8- 15, and 17-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Schubert.

Regarding Claim 1, Schubert discloses a mount 10 (see Figure 3) capable of use on a powertrain component of a motor vehicle (see column 1 lines 16-21) having all the features of the instant invention including: a first plate 32 connected to a powertrain equivalent component 16, a second plate 34 connected to a frame 18 equivalent to a frame of a motor vehicle (as suggested by column 1 lines 16-21), and means 22 for

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adjusting damping characteristics of the mount as a function of the capacitance between the first plate and the second plate (see column 8 lines 26-33 and column 9 lines 16-40 and note that the capacitance is used by the system controller 22 to determine the appropriate viscosity of the fluid used in the damper, therefore this adjustment means 22 uses capacitance as a variable in determining the appropriate damping characteristic for the system).

Regarding Claim 2, see controller 22.

Regarding Claim 3, again see means 22 which is readable as a capacitance-to-voltage device connected to the plates (as alluded to in column 9 lines 16-40).

Regarding Claim 4, see Figure 3 and first plate 32 fixed relative to the powertrain equivalent component 16 via element 62.

Regarding Claim 5, see Figure 3 and second plate 34 fixed to a component 18 equivalent to the frame of a motor vehicle.

Regarding Claim 6, see column 8 lines 26-33 and column 9 lines 16-40 and Claim 1 above).

Regarding Claim 8, see first plate 32 and note in Figure 3 the positively charged line 88 extending to the plate (also see column 9 lines 59-62)

Regarding Claim 9, see second plate 34 and column 9 lines 62-64, where the plate is connected via line 89 to ground, i.e., the frame of the vehicle, and is thus readable as being negatively charged at least to the same extent as applicant's.

Regarding Claim 10, see Claims 1 and 2 above.

Regarding Claim 11, see column 9 lines 16-40.

Regarding Claim 12, see Claim 4.

Regarding Claim 13, see Claim 5.

Regarding Claim 14, see Claim 6.

Regarding Claim 15, note capacitance-to-voltage device 22 forms part of the controller and is thus connected to the controller.

Regarding Claim 17, see Claim 8 above.

Regarding Claim 18, see Claim 9 above.

Regarding Claim 19, see Claims 1, 2, 8, 9, and 10 above.

Regarding Claim 20, see Claim 6.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 7 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schubert.

Regarding Claims 7 and 16, Schubert does not specifically disclose that his powertrain component (or equivalent thereof) is an engine of a motor vehicle.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have constructed the powertrain component of Schubert to be an engine as this type of assembly would benefit greatly from the use of the damper of the

prior art. By utilizing the damper system of Schubert on an engine assembly, the vibrations of the engine can be greatly reduced merely by adjusting and accounting for the relative displacement and capacitance generated between the two damping plates.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Sato, Kordonsky et al., Kiyohiro et al., Doi et al, and Takano et al all disclose mounts for controlling the damping characteristics of motor vehicles having first and second plates whose voltages are varied to adjust for damping in their respective systems.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pam Rodriguez whose telephone number is 703-308-3657. The examiner can normally be reached on Monday-Thursday 6:30am-4 pm and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavinder can be reached on 703-308-3421. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.



Pam Rodriguez
Primary Examiner
Art Unit 3683

8/21/02

pr
August 21, 2002